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UNITED STATES DISTRICT COURT

DATE 7 / 26 / 11

WESTERN DISTRICT OF LOUISIANA

JDB

ALEXANDRIA DIVISION

JEAN GUIRAND,
Petitioner

CIVIL ACTION
1:11-CV-00311

VERSUS

DAVID COLES, et al.,
Respondents

JUDGE DEE D. DRELL
MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

Before the court is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 by petitioner Jean Frantz Guirand ("Guirand") on February 23, 2011. Guirand, a native and citizen of Haiti, is contesting his continued detention by the Immigration and Customs Enforcement ("ICE"), Department of Homeland Security, while awaiting removal from the United States. Guirand contends he has been detained by ICE since August 16, 2010 and that, due to the 2010 earthquake and subsequent suspension of removals to Haiti, there is no possibility that he will be removed in the reasonably foreseeable future. For relief, Guirand asks to be released from detention¹ pending his removal from the United States, pursuant to Zadvydas v. Davis, 533 U.S. 678, 121 S.Ct. 2491 (2001).

The Respondent filed a motion to dismiss Guirand's petition (Doc. Item 19), with documentary evidence and an affidavit showing

¹ At the time of filing his petition, Guirand was was detained in the LaSalle Detention Facility in Jena, Louisiana.

Guirand was removed to Haiti on July 12, 2011. Since Guirand has been removed, his petition for habeas relief pending removal has been rendered moot.

Conclusion

Based on the foregoing discussion, IT IS RECOMMENDED that Guirand's habeas petition be DISMISSED WITH PREJUDICE AS MOOT.

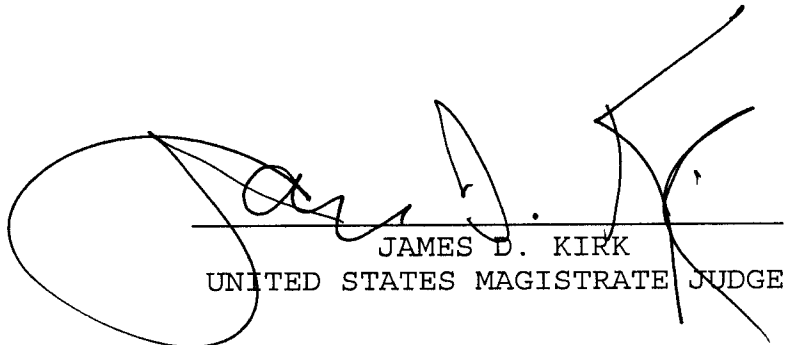
Under the provisions of 28 U.S.C. Section 636(b)(1)(C) and Rule 72(b), parties aggrieved by this recommendation have fourteen (14) days from service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within fourteen (14) days after being served with a copy of any objections or response to the District Judge at the time of filing.

Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within fourteen (14) days following the date of its service, or within the time frame authorized by Fed.R.Civ.P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. See *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Pursuant to Rule 11(a) of the Rules Governing Section 2255 proceedings for the United States District Courts, this court must

issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Unless a Circuit Justice or District Judge issues a certificate of appealability, an appeal may not be taken to the court of appeals. Within fourteen (14) days from service of this Report and Recommendation, the parties may file a memorandum setting forth arguments on whether a certificate of appealability should issue. See 28 U.S.C. § 2253(c)(2). A courtesy copy of the memorandum shall be provided to the District Judge at the time of filing.

THUS DONE AND SIGNED at Alexandria, Louisiana, on this 26th day of July 2011.



JAMES D. KIRK
UNITED STATES MAGISTRATE JUDGE